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Attorney for Defendant  
MARCOS LESMON BENAVIDEZ

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,	)	Case No. CR. S-04-315-WBS
	)	
Plaintiff,	)	STIPULATION AND REQUEST FOR
	)	CONTINUANCE AND FINDING OF
v.	)	EXCLUDABLE TIME UNDER THE
	)	SPEEDY TRIAL ACT AND LOCAL
MARCOS LESMON BENAVIDEZ,	)	CODES T4 and T2; ORDER
	)	EXCLUDING TIME
Defendant.	)	
	)	Date: October 12, 2005
	)	Time: 9:00 a.m.
	)	Judge: Hon. William B. Shubb

It is hereby stipulated and agreed to between the United States of America through DANIEL LINHARDT, Supervising Assistant U.S. Attorney, and defendant, MARCOS LESMON BENAVIDEZ, by and through his counsel, DENNIS S. WAKS, Supervising Assistant Federal Defender, that the status conference hearing set for August 24, 2005 be vacated and reset for October 12, 2005 at 9:00 a.m.

This continuance is requested because defendant's former counsel, Rachelle Barbour, Assistant Federal Defender, is presently out on maternity leave. New counsel needs time to review and analyze discovery received from the government, and to discuss it with Mr. Benavidez. Defense counsel has received over 3000 pages of claim

1 documents from the government, which need to be discussed with Mr.  
2 Benavidez. Defense counsel has also received four audiotapes in  
3 Spanish. The defendant has requested additional investigative  
4 documents, including reports, copies of any witness interviews, and  
5 additional information from the investigating agent.

6 Both parties believe that based on the documents produced to  
7 date, and the outstanding documents sought by the defense, this case is  
8 complex under the standard set forth in Local Code T2 and Title 18  
9 U.S.C. § 3161(h)(8)(B)(ii). The Court has previously found that it is  
10 complex. The parties ask that time to be excluded on that basis and  
11 for preparation of new defense counsel (Local Code T4).

12 All parties desire that a status conference be set on October  
13 12, 2005. The parties further stipulate and agree that time from the  
14 date of the order below until October 12, 2005, be excluded under the  
15 Speedy Trial Act pursuant to Local Codes T2 and T4, Title 18, U.S.C.  
16 §§ 3161(h)(8)(B)(ii) and (iv), because the case is complex and to give  
17 defense counsel reasonable time to prepare, conduct investigation,  
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1 and discuss the case with Mr. Benavidez and the government.

2 Dated: August 18, 2005

Respectfully submitted,

3 QUIN DENVIR  
4 Federal Public Defender

5 By /s/ Dennis S. Waks  
6 DENNIS S. WAKS  
7 Sup. Assistant Federal Defender  
8 Attorney for Defendant  
9 MARCOS LESMON BENAVIDEZ

10 Dated: August 18, 2005

MCGREGOR SCOTT  
United States Attorney

11 /s/ Dennis S. Waks for  
12 DANIEL LINHARDT  
13 Sup. Assistant U.S. Attorney  
14 Attorney for Plaintiff

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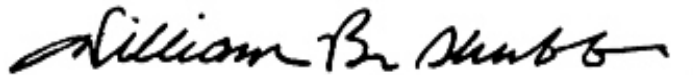
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ORDER

**IT IS SO ORDERED.** The Court makes a finding of excludable time as set forth in the attached stipulation. The time between the date of this order through October 12, 2005, will be excluded under the Speedy Trial Act pursuant to Local Codes T2 and T4, Title 18, U.S.C. §§ 3161(h)(8)(B)(ii) and (iv). The Court specifically finds that the case is complex as provided in 18 U.S.C. § 3161(h)(8)(B)(ii). The court also specifically finds that a continuance is necessary to give counsel for the defendant reasonable time to prepare in this matter. The court finds that the ends of justice served by granting a continuance outweigh the best interests of the public and the defendant in a speedy trial.

DATED: August 24, 2005



WILLIAM B. SHUBB  
UNITED STATES DISTRICT JUDGE